

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHEVELLE TINGEN,	:	
	:	
Plaintiff	:	
	:	CIVIL ACTION No. 02-4663
vs.	:	
	:	
	:	
ROBERT L. ECKLIN, JR., Individually and	:	
doing business as ECKLIN DEVELOPMENT	:	
GROUP and DENNIS SCHOPF,	:	
Defendants	:	

DEFENDANTS' PRETRIAL MEMORANDUM

Pursuant to this Court's Orders dated March 20, 2003 and April 1, 2003, Defendants, Robert L. Ecklin, Jr., individually and doing business as Ecklin Development Group and Dennis Schopf ("collectively the Ecklin Group") hereby file this Pretrial Memorandum¹.

(a) Scheduled Exhibits to be Offered at Trial.

Defendants' Proposed Schedule of exhibits is attached as Schedule A. Defendants respectfully reserve the right to use as exhibits at trial any exhibits identified by Plaintiff in her Pretrial Memorandum. Further, Defendants reserve the right to supplement this list if and when the Court deems appropriate.

(b) Expert Witness.

Jerome I. Gottlieb, M.D.
211 Granite Run Drive
Lancaster, PA 17601

Dr. Gottlieb's area of expertise is psychiatry.

(c) Curriculum Vitae for Each Expert Witness.

Defendants' expert, Dr. Jerome Gottlieb's, Curriculum Vitae is attached hereto as Exhibit B.

¹ The Defendant named in the caption of Plaintiff's lawsuit is Ecklin Development Group. No such entity exists. Ecklin Group is a sole proprietorship and Ecklin Development, LLC is a Pennsylvania Limited Liability Company.

(d) Witnesses Defendant May Present at Trial.

1. Robert L. Ecklin, Jr.
Ecklin Group
8 North Queen Street
Griest Building, Suite 301
Lancaster, PA 17603
2. Dennis Schopf
Ecklin Group
8 North Queen Street
Greist Building, Suite 301
Lancaster, PA 17603
3. Zulma Cora
Ecklin Group
8 North Queen Street
Greist Building, Suite 301
Lancaster, PA 17603
4. Mark McCardle
Ecklin Group
8 North Queen Street
Griest Building, Suite 301
Lancaster, PA 17603
5. Charlene Kulesa
Ecklin Group
8 North Queen Street
Griest Building, Suite 301
Lancaster, PA 17603
6. Maribel Valez
Apt. 1
213 West Orange Street
Lancaster, PA 17602
7. Eleanor Paulin
101 Charles Road
Lancaster, PA 17603

The subjects of information include Plaintiff's work history and employment with Ecklin Group; Plaintiff's relationship with Defendant Dennis Schopf; the circumstances pertaining to Plaintiff's Complaint of alleged harassment; and, the absence of any unlawful

treatment involving Plaintiff in connection with the allegations in the Complaint, including Plaintiff's claim for damages.

Defendants respectfully reserve the right to change the order of the witnesses listed above, and reserve the right to call any witnesses listed on Plaintiff's Pretrial Memorandum. Further, Defendants reserve the right to supplement this list if and when the Court deems appropriate.

(e) Itemized Statement of Plaintiff's Damages.

Plaintiff's damages will be set forth in the pretrial memorandum of Plaintiff. Defendant asserts that Plaintiff should not receive any damages for lost earnings or front-pay because of her failure to mitigate such damages, as well as for emotional distress, humiliation, embarrassment and similar alleged consequences. Further, Defendants assert that Plaintiff is not entitled to recover any punitive damages.

(f) Statement of Anticipated Significant and/or Unique Issues.

Defendants, on September 4, 2003, filed a Motion for Summary Judgment. In this Motion, Defendants argue that none of the Defendants is a covered employer under Title VII of the Civil Rights Act of 1964, as they do not employ 15 or more employees. Defendants then argue that the remaining state law claims should be dismissed, since this Court will lack subject matter jurisdiction if the Title VII cause of action is dismissed.

Defendants have filed a Motion in Limine seeking the exclusion of Plaintiff's diary, based upon the fact that that diary is hearsay in and of itself, and also entries contained in the diary constitute double and triple hearsay. Fed. R. Evid. 801-802.

Furthermore, in the same Motion in Limine, Defendants have argued that any evidence concerning Ecklin Group's financial worth should be precluded until such time as the Court deems that Plaintiff has satisfied her burden of proof to allow the issue of punitive

damages to be decided by the jury. *Williams v. Betz Laboratories, Inc.*, 1996 U.S. Dist. Lexis 3045, *8-10 (E.D. Pa 1996).

(g) Names and Addresses of All Parties.

Robert L. Ecklin, Jr.
Suite 301, Griest Building
8 North Queen Street
Lancaster, PA 17603

Dennis Schopf
101 Charles Road
Lancaster, PA 17603

Chevelle Tingen
Apt. B
430 Euclid Avenue
Lancaster, PA 17602

(h) Name, Address and Telephone Number of Trial Counsel.

For Defendant:

Gary D. Melchionni
Stevens & Lee
25 North Queen Street
Suite 602
Lancaster, PA 17603
(717) 291-1031

Joseph D. Shelby
Stevens & Lee
25 North Queen Street
Suite 602
Lancaster, PA 17603
(717) 399-1721

For Plaintiff:

Nina Shapio
53 North Duke Street
Suite 201
Lancaster, PA 17602
(717) 399-8720

(i) **Proposed Voir Dire Questions.**

Defendants' Proposed Voir Dire Questions are attached hereto as Schedule C.

(j) **Proposed Verdict Slip.**

Defendants' Proposed Verdict Slip on the sexual harassment claims is attached hereto as Schedule D.

Defendants' Proposed Verdict Slip on the remaining pendant state law claims is attached hereto as Schedule E.

Respectfully submitted,

STEVENS & LEE

Gary D. Melchionni
Joseph D. Shelby
Suite 602
25 North Queen Street
Lancaster, PA 17603

Dated: September ___, 2003

Attorneys for Defendants

CERTIFICATE OF SERVICE

I, JOSEPH D. SHELBY, ESQUIRE, certify that on this date, I served a true and correct copy of the foregoing DEFENDANTS' PRETRIAL MEMORANDUM upon the Plaintiff's attorney, via United States Mail at the following address:

Nina B. Shapiro, Esquire
53 North Duke Street
Suite 201
Lancaster, PA 17602

Joseph D. Shelby

Dated: September __, 2003